

ALBANY COMMON COUNCIL MINUTES OF A REGULAR MEETING

Monday, January 4, 2016

The Common Council was convened at 7:00 p.m. and was called to order by President

The roll being called, the following answered to their names: Council Members Applyrs, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Krasher, O'Brien and Robinson.

Also present was the following staff: Nala Woodard, Barbara Samel, Patrick Jordan, and Cashawna Parker.

Council Member Flynn led the Pledge of Allegiance.

President Pro Tempore Conti made a motion to change the order of business to allow for the consideration of Resolution Number 2.11.16R, which was approved by unanimous voice vote

Council Member O'Brien introduced RESOLUTION NUMBER 2.11.16R, which was approved by unanimous voice vote:

RESOLUTION HONORING JESSE AND THERESA SANDIDGE AND NAMING LOUGHLIN STREET IN THEIR HONOR

WHEREAS, in 1961 Jesse and Theresa Sandidge were the first African-American family to purchase a home on Loughlin Street near Fuller Road in Albany, where upon their arrival they encountered discrimination and hostility; and

WHEREAS, their story was chronicled in 1965 by then Times Union reporter William Kennedy in a series of articles regarding changing demographics in Albany neighborhoods; and

WHEREAS, through the strength and perseverance of the Sandidge Family, Loughlin Street became an integrated neighborhood of four African-American families and five Caucasian families whose adults and children socialized harmoniously together and made Loughlin Street into a remarkable neighborhood; and

WHEREAS, Theresa Sandidge continued to be a pioneer becoming the first African-American president of the Albany School District Parent Teacher Association. Following her early death in 1968 a Times Union editorial mourned her death as a "grievous loss to the community" and praised her work "to free Albany from the mire of prejudice"; and

WHEREAS, in 2014 and 2015 all nine of the homes on Loughlin Street were purchased and are slated for demolition to make way for the expansion of the SUNY Polytechnic Institute College of Science and Engineering; and

WHEREAS, even though Loughlin Street as a residential street will no longer exist, the legacy of Jesse and Theresa Sandidge, and other families who enriched it as a harmonious and integrated neighborhood in which to live, must continue.

NOW, THEREFORE, BE IT RESOLVED, that in recognition of their lives and the lives of their neighboring families, an honorary street sign to read “Jesse and Theresa Sandidge Way” shall be placed adjacent to the existing Loughlin Street sign.

BE IT FURTHER RESOLVED, that this Resolution along with a request to preserve the name “Jesse and Theresa Sandidge Way” even after the neighborhood is demolished, shall forthwith be forwarded to Nancy L. Zimpher, Chancellor of the State University of New York.

**Note: Council Member O’Brien, Representatives of the Sandidge Family, Don Greeb spoke on this resolution prior to passage.*

The resolution passed by the following voice vote of all the Council Members elected voting in favor thereof:

Affirmative – Applys, Comisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Krasher, O’Brien and Robinson

Affirmative 13 Negative 0 Abstain 0

PUBLIC COMMENT PERIOD

1. Dhalia Herring (Reso 5.11.16R)
2. Ruth Pelham, 140 Nelmar Ave 12208 (Reso 5.11.16R) rpelham@aol.com
3. Fazana Saleem-Ismail, (Reso 5.11.15R)
4. Derek Healey, President of UAlbany Interfaith Coalition (Reso 5.11.16R)
5. Tasneem Ali, (Reso 5.11.16R)

President McLaughlin acknowledged Assemblyman Samuel D. Roberts.

6. Khalid Bhatti, President of the Board of Trustees Mosque, Latham, NY (Reso 5.11.16R)

President Pro Tempore Conti made a motion to extend public comment for an additional 30 minutes, which was approved by unanimous voice vote.

7. Dr. Asma Arif, Member on the Board of Directors Mosque, Latham, NY (Reso 5.11.16R)
8. Margaret Danes, 123 Homestead Ave., Albany, NY (Reso 5.11.16R)
9. Lynne Jackson, (Reso 5.11.16R)
10. John Aumand
11. John-Jay Steinhardt, 680 Central Ave (Fire Hydrant program)
12. Vincent Riguso, 13 Beach Ave (Trash Fee)
13. Daniel Plaat
14. Darius Shahinfar, Treasurer

There being no further speakers, the President declared the Public Comment Period closed.

President Pro Tempore Conti made a motion to change the order of business to allow for the consideration of Resolution Number 5.11.16R, which was approved by unanimous voice vote

Council Member Golby introduced RESOLUTION NUMBER 5.11.16R, which was approved by unanimous voice vote:

RESOLUTION OF THE COMMON COUNCIL STATING THAT THE CITY OF ALBANY STANDS WITH MUSLIM NEIGHBORS AGAINST ISLAMOPHOBIA

WHEREAS, throughout its long history, the City of Albany has been built on the strength of its ethnic, racial, and religious diversity; and

WHEREAS, Albany is a city of immigrants. According to U.S. Census data, in 2013, 11.25% of city of Albany residents were born outside of the United States, ranking our city sixth of the top ten cities in New York State with foreign-born populations; and

WHEREAS, as of 2014, Muslims represented about 1.5% of the City of Albany's total estimated population of 97,856, or nearly 1,500 residents; and

WHEREAS, the regional Muslim population is over 10,000 and includes immigrants from Iraq, Afghanistan, Syria, Turkey, Bosnia, Malaysia, Egypt, Pakistan, Iran, India, and African nations, as well as American-born Muslims, who attend six mosques, one of them in the City of Albany; and

WHEREAS, Muslims are integral members of our community, beginning with children attending Albany's schools and adults represented in all professions including city employees, store clerks, laborers, small business owners, physicians, medical technicians, college professors, chemists, engineers, accountants, artists, musicians, and business leaders; and

WHEREAS, since the Paris terrorist attacks in November 2015, and the San Bernardino terrorist attacks in California in December 2015, fear of Muslims has increased nationwide; and

WHEREAS, incidents of violence and hatred against Muslims, and inflammatory comments by public figures, have also increased, with the Council on Islamic-American Relations (CAIR) stating that it "has received more reports about acts of Islamophobic violence, threats, intimidation, and discrimination targeting American Muslims (or those perceived to be Muslim) and Islamic institutions since the Paris attacks than during any other limited period of time since the 9/11 terror attacks;" and

WHEREAS, there are prejudicial and unjust actions from our nation's history, such as the placement of Japanese residents in internment camps during WWII, that show the harmful and consequential results of blaming an entire group of people based on their race, religion, culture, sexual orientation, gender identity or gender for the actions of a small segment of that population; and

WHEREAS, in response to the San Bernardino attack, President Obama, in a national televised speech on December 6, rejected the view that there should be a war on Islam; acknowledged that the vast majority of the victims of terrorism are Muslims and that extremists are a "tiny fraction" of Muslims worldwide; and rejected both discrimination against American Muslims and a religious test for those admitted to this country, saying that "Muslim Americans are our friends and neighbors, our co-workers, our sports heroes, and yes, they are our men and women in uniform who are willing to die in defense of our country..." and

WHEREAS, President Obama also said, "Let's not forget that freedom is more powerful than fear."

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany hereby declares that fear will not divide us; that we recognize that the threats posed by Islamophobia to our American values of religious freedom and cultural diversity are threats against our very way of life in both the City of Albany and the United States; and that we as a community stand firmly with our Muslim neighbors against Islamophobia in all its manifestations; and

BE IT FURTHER RESOLVED, that the Common Council of the City of Albany requests that the Clerk of this Council forward copies of this resolution to locally elected federal, state, and county officials.

**Note: Council Member Golby, Fahey and Krasher spoke on this resolution prior to passage.*

The resolution passed by the following voice vote of all the Council Members elected voting in favor thereof:

Affirmative – Applyrs, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Krasher, O’Brien and Robinson

Affirmative 13 Negative 0 Abstain 0

CONSIDERATION OF LOCAL LAWS:

Council Member O'Brien introduced Local Law A-2016, which was referred to the General Services Committee:

A LOCAL LAW AMENDING CHAPTER 171 (ELECTRICITY) OF THE CODE OF THE CITY OF ALBANY BY ADDING A NEW ARTICLE IV REGARDING UTILITY POLES

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Chapter 171 of the Code of the City of Albany is hereby amended by adding a new Article IV to be entitled “Utility Pole Regulations”.

ARTICLE IV Utility Pole Regulations

§ 171-54. Legislative findings.

The Common Council for the City of Albany hereby finds that unnecessary utility poles within close proximity to one another pose an immediate and serious hazard to motorists and pedestrians by impeding visibility along roadways, particularly at or near intersections, while serving no legitimate need or purposes. In addition, such utility poles constitute a visual eyesore while, again, serving no legitimate need or purpose. The Common Council further finds that it would be in the best interest of the City and would serve to protect and preserve the health, safety and welfare of the community to require the owners of unnecessary utility poles in close proximity to one another to remove all such unnecessary utility poles. The Common Council also finds that it would be in the best interest of the City to inspect all current and proposed utility poles to determine their stability and ensure the safety of all residents. It is the purpose of the Common Council in adopting this chapter to discourage the installation of unnecessary utility poles and to compel the owners of all existing unnecessary utility poles to remove them from City-owned properties and rights-of-way in order to protect and preserve the health, safety and welfare of the community. It is the goal of the Common Council to compel the elimination of all unnecessary utility poles from the City of Albany.

§ 171-55. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

UTILITY POLE

A pole made of any material, which is affixed to the ground and which carries overhead utility services lines. The phrase “utility pole” includes the phrases “telephone pole” and “light pole.”

PERMITTED UTILITY POLE

Any pole which is 12 or more feet from all other utility poles.

UNNECESSARY UTILITY POLE

- A. Any utility pole which is within 12 feet of another utility pole unless:
- i) It is necessary to safely carry some or all of the utility services lines which it, and all other utility poles within 12 feet of it, are intended to carry; and
 - ii) There is no feasible alternative configuration of utility poles which can safely carry all of the utility service lines in that area using only utility poles 12 or more feet from another.
- B. Absent satisfactory evidence of the necessity of the utility pole in question and/of the feasibility of alternative configurations of utility poles, any utility pole which is located within 12 feet of any other utility pole shall be presumed to be an unnecessary utility pole.

UTILITY SERVICE

Electricity, telephone service including cable telephone service, television service including cable television service, internet access including cable internet access and any other telecommunications service.

UTILITY SERVICE LINES

Cables, wires, services, lines, pipes, conduits, fixtures, appliances or any other element of the delivery system of any public or private utility service.

COMMISSIONER

The Commissioner of the Department of General Services.

§ 171-56. Utility Pole requirements; guy wires.

All utility poles shall be structurally sound and capable of standing in the vertical position and carrying the utility service lines attached to them without the support, direct or indirect, of any other utility pole. Guy wires may be used to support a utility pole, but no guy wire shall cross any road, street, sidewalk or paved or unpaved pedestrian walkway in such a manner as to pose a hazard to vehicles or pedestrians.

§ 171-57. Installation; existing poles.

- A. Installation of an Unnecessary Utility Pole.
1. After the effective date of this chapter it shall be unlawful to install or have installed an unnecessary utility pole on City-owned property or within the City's right-of-way unless the

owner of any such pole can demonstrate, by a signed engineer's report, to the satisfaction of the Commissioner, that:

- i) The utility pole in question is necessary to safely carry some or all of the utility service lines which it and all other utility poles within 12 feet of it are intended to carry; and
 - ii) There is no feasible alternative configuration of utility poles which can safely support all of the utility service lines in that area using only utility poles 12 or more feet from one another.
2. Collocation of utility lines on poles and the sharing of poles by different utility companies shall be considered a feasible alternative configuration to installing separate utility poles within 12 feet of one another.
 3. An application for permission to install a permitted pole or an unnecessary utility pole shall be made to the Commissioner. The application shall include the required documentary engineering evidence relevant to the necessity of the utility pole in question and the feasibility of alternative configurations of utility poles and payment of an application fee in the amount of \$150. The subject utility pole shall not be installed unless and until Commissioner shall approve the application.

B. Existing poles.

1. Any unnecessary utility pole existing on the effective date of this chapter shall be removed by the owner within the time specified in a "Notice To Remove Unnecessary Utility Pole" mailed in accordance with § 171-59 below unless the owner of any such unnecessary utility pole can demonstrate, by a signed engineer's report, to the satisfaction of the Commissioner, that:
 - i) The utility pole in question is necessary to safely carry some or all of the utility service lines which it and all other utility poles within 12 feet of it are intended to carry; and
 - ii) There is no feasible alternative configuration of utility poles which can safely support all of the utility service lines in that area using only utility poles 12 or more feet from one another.
2. Collocation of utility lines on poles and the sharing of poles by different utility companies shall be considered a feasible alternative configuration to installing separate utility poles within 12 feet of one another.
3. An application for permission to continue to use and maintain an existing otherwise unnecessary utility pole shall be made to the Commissioner within the time provided for removal of the unnecessary utility pole in the "Notice To Remove Unnecessary Utility Pole." The application shall include the required documentary engineering evidence relevant to the necessity of the utility pole in question and the feasibility of alternative configurations of utility poles and payment of an application fee in the amount of \$150. Upon making such application, removal of the subject utility pole shall be held in abeyance pending a final determination on the application by the Commissioner. If the proof provided does not satisfy the Commissioner that the subject utility pole is, in fact, necessary, the Commissioner or his/her designee shall notify the owner in writing of the determination and direct that the unnecessary utility pole be

removed by a date certain which shall be no less than 14 days after the date of the mailing of that notification.

§ 171-58. Annual Structure Fee.

Pole owners must submit a list to the Department of General Services ("the Department") identifying all utility poles owned within the City of Albany within 60 days of the enactment of this article and must provide the list annually thereafter. This list must include the following information: (1) a GIS map of the location of all utility poles, (2) the age and condition of each utility pole, (3) a list of all utility services currently on the utility pole, and (4) if the utility pole contains a light, the type and wattage of the bulb and any other characteristics that would affect billing. There is an annual fee of \$4 per utility pole to be paid by the pole owner in January of each calendar year or within 90 days of the enactment of this article, to the Department for ~~visual~~ inspections and recordkeeping by the City. This section shall apply to both permitted and unnecessary utility poles. The annual inspection fee will cover the cost of a visual inspection performed by the Department, and will ensure that the utility pole and attached wires and equipment are installed in a safe and serviceable manner, that no duplicate poles are left with incomplete utility wires/equipment transfers, and that double utility poles are timely removed and permanent restoration is completed. Pole ownership will be assumed by pole badging as required by law or other methods. If the Department determines that there is a defect with the utility pole upon inspection, then a notice will be sent to the registered owner of the utility pole. If the owner of the utility pole fails to remedy this defect within 30 days of receiving said notice, then the owner shall be subject to penalties pursuant to this article. If two pole identification badges are visible, the upper badge will be the assumed owner. It will be incumbent upon the assumed owner to clarify ownership between joint users and promptly notify the Department accordingly. Payment is due to the City within 30 days of receipt of bill regardless of whether ownership is disputed. A late payment penalty of 1.5% will be assessed for each month not paid by the billed party. Pole owners are required to badge each pole which will be easily read from ground level, containing a single pole identification badge mounted on the street side, indicating a unique number and current owner. Additionally, each third party or communication wire attacher will install a unique color-coded tube for each attacher with the current owner's name inscribed and visible from ground level for ease of identification in the field as required and approved by the Department. The color of the tube or badge shall be approved by the Department to maintain uniqueness.

§ 171-59. Notice to remove unnecessary utility poles.

The Commissioner or his/her designee is hereby authorized and directed to send a "Notice To Remove Unnecessary Utility Pole," by certified mail, return receipt requested, to the owner of each utility pole located on City-owned property or within the City's right-of-way, identifying each such utility pole by number, if one is located on the utility pole, or by location with sufficient specificity to reasonably identify the subject utility pole and directing that, within a time specified, which shall be no less than 14 days after the mailing of such "Notice To Remove Unnecessary Utility Pole," such unnecessary utility pole be removed or that an application be made for the continued use and maintenance of the otherwise unnecessary utility pole.

§ 171-60. Penalties for Offenses.

- A. Any person, firm or corporation or public utility offending or violating this article shall be guilty of this violation.

- B. Any person, firm or corporation or public utility found guilty of a violation under this article shall be liable for a fine which shall not exceed \$1,000.00 in amount in the discretion of the court. Each day on which any such violation continues shall constitute a separate chargeable offense.
- C. The owner of any utility pole shall be responsible for its installation and/or continued use and maintenance and shall be liable for all fines.
- D. If a person, firm or corporation or public utility violates the provisions of this article, or fails to remove its damaged and/or double pole or plant from a damaged pole in accordance with the provisions of this article, the Corporation Counsel, upon the request of the Commissioner, may commence an action in the name of the City in a court of competent jurisdiction for necessary relief, which may include the imposition of civil penalties as authorized by this article, for necessary relief, which may include the imposition of civil penalties as authorized by this article, an order to remove the plant from a damaged utility pole and/or to remove damaged pole or double pole, the recovery of costs of the action and such other remedies as may be necessary to prevent or enjoin a dangerous condition from existing in a City roads or rights-of-way.

§ 171-61. Applicability.

- A. This article shall apply to all utility poles located on City roads or rights-of-way as of the effective date of this article.
- B. The provisions of this chapter shall be deemed to supplement applicable state and local laws, ordinances, codes and regulations; and nothing in this chapter shall be deemed to abolish, impair, supersede or replace existing remedies of the City, county or state or existing requirements of any other applicable state or local laws, ordinances, codes or regulations. In case of conflict between any provision of this chapter and any applicable state or local law, ordinance, code or regulation, the more restrictive or stringent provision or requirement shall prevail.

§ 171-62. Severability.

If any clause, sentence, paragraph, section, word or part of this chapter is adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation to the clause, sentence, paragraph, section, word or part of this chapter directly involved in the controversy in which judgment is rendered.

Section 2. This local law shall take effect upon final passage, public hearing and filing with the Secretary of State.

Council Member Conti asked for passage of LOCAL LAW J-2015 (As Amended 12/21/15) (A LOCAL LAW AMENDING ARTICLE I (REMOVAL OF GARBAGE) OF CHAPTER 313 (SOLID WASTE) OF THE CODE OF THE CITY OF ALBANY REGARDING CURBSIDE COLLECTION AND MATTERS RELATED THERETO), which had been previously introduced:

**Note: Council Members Conti, Krasher, Robinson, O'Brien, Commisso, Golby, Doesschate, Fahey and President McLaughlin spoke on this local law prior to passage.*

*Note: Council Member Igoe made a point of order to report that Local Law J-2015 was referred out of committee with four committee members in favor and one opposed.

The resolution passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative –Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough and O’Brien

Negative – Applyrs, Commisso, Krasher and Robinson

Affirmative 9 Negative 4 Abstain 0

The local laws on the pending agenda were held at the request of President Pro Tempore Conti

REPORTS OF STANDING COMMITTEES:

NONE

CONSIDERATION OF ORDINANCES

The remaining Ordinances on the pending agenda were held at the request of President Pro Tempore Conti.

CONSIDERATION OF RESOLUTIONS

Council Member Herring introduced RESOLUTION NUMBER 1.11.16R, which was approved by unanimous voice vote:

RESOLUTION OF THE COMMON COUNCIL RE-APPOINTING FRANCIS A. COSGROVE AS A MEMBER OF THE BOARD OF ASSESSMENT REVIEW

RESOLVED, that Francis A. Cosgrove is hereby re-appointed as a member of the Board of Assessment Review for a term of office ending September 30, 2020.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

The resolution passed by the following voice vote of all the Council Members elected voting in favor thereof:

Affirmative – Applyrs, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Krasher, O’Brien and Robinson

Affirmative 13 Negative 0 Abstain 0

Council Member Fahey introduced RESOLUTION NUMBER 3.11.16R, which was approved by unanimous voice vote:

RESOLUTION OF THE COMMON COUNCIL APPOINTING LATWANA ELLIS AS A MEMBER OF THE COMMISSION ON HUMAN RIGHTS

WHEREAS, the Common Council of the City of Albany, pursuant to the Section 42-362 of Chapter 42 of the Code of the City of Albany, appoints Latwana Ellis as a member of the Commission on Human Rights.

NOW, THEREFORE, BE IT RESOLVED, that Latwana Ellis is hereby appointed as a member of the City of Albany Commission on Human Rights for a term ending on August 21, 2018.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

The resolution passed by the following voice vote of all the Council Members elected voting in favor thereof:

Affirmative – Applyrs, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Krasher, O’Brien and Robinson

Affirmative 13 Negative 0 Abstain 0

Council Member Fahey introduced RESOLUTION NUMBER 4.11.16R, which was approved by unanimous voice vote:

RESOLUTION OF THE COMMON COUNCIL APPOINTING JACQUELYN RICHARDS AS A MEMBER OF THE COMMISSION ON HUMAN RIGHTS

WHEREAS, the Common Council of the City of Albany, pursuant to the Section 42-362 of Chapter 42 of the Code of the City of Albany, appoints Jacquelyn Richards as a member of the Commission on Human Rights.

NOW, THEREFORE, BE IT RESOLVED, that Jacquelyn Richards is hereby appointed as a member of the City of Albany Commission on Human Rights for a term ending on August 21, 2016.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

The resolution passed by the following voice vote of all the Council Members elected voting in favor thereof:

Affirmative – Applyrs, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Krasher, O’Brien and Robinson

Affirmative 13 Negative 0 Abstain 0

The remaining Resolutions on the pending agenda were held at the request of President Pro Tempore Conti.

MISCELLANEOUS AND UNFINISHED BUSINESS:

Majority Leader Herring offered the following, which was approved by unanimous voice vote:

RESOLVED THAT THE FOLLOWING PERSONS BE AND HEREBY ARE APPOINTED COMMISSIONERS OF DEEDS FOR THE CITY OF ALBANY, NEW YORK FOR THE TERM ENDING DECEMBER 31, 2016, AND WAIVE THE READING OF THE NAMES:

1. Akili-Abdul H. Duncan, 8 Dana Avenue Albany, NY 12208

ADJOURNMENT

A motion was made for adjournment.

President McLaughlin stated, hearing no objections, that the Council was adjourned.

A true record of the Common Council Minutes of January 4th, 2016.

CASHAWNA PARKER
Legislative Aide to the Council